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CLEARINGHOUSE RULE 00-082

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

This rule appears to use the fewest words possible to comply with the requirement that rules be promulgated. The result is a rule, but not a program. Clearly, by requiring the department to promulgate rules, the Legislature intended the department to flesh out the programs it was creating and to specify minimum program requirements in a process that is open to the public and subject to legislative review. In strong contrast to this, the rule reveals almost none of the mysteries of how this program will be implemented.

In particular, s. 16.957 (2) (c) 2., Stats., requires the department to promulgate rules establishing requirements and procedures for applications for grants awarded under public benefit programs. Section Adm 45.05 contains the few provisions that relate to this topic, stating in one brief paragraph that eligible households may apply for benefits to the department or a program administrator, using forms prescribed by the department executed by at least one member of the eligible household. No further detail is given. The department has not included the forms with the rule, so the Rules Clearinghouse cannot evaluate their content. Presumably, there will be more than one type of benefit available under the program, to which different eligibility requirements and application information and review requirements may apply. There should also be requirements for processing and acting upon applications and for appeal of benefit denials. These are the kinds of requirements and procedures that should be included in the rule.

2. Form, Style and Placement in Administrative Code

a. The analysis of the rule is entirely inadequate. It neither analyzes nor explains the provisions of the rule, but instead merely states the subject of the rule in a paraphrased restatement of the statutes that require the rule.

b. Given the brevity of the new chapter created by this rule and the close relationship between it and the new chapters created in Clearinghouse Rules 00-80 and 00-81, the department may want to consider creating them as three subchapters of a single chapter of the Wisconsin Administrative Code.

c. The term defined in s. Adm 45.03 (3) should be placed in alphabetical order with the other terms defined.

d. Section Adm 45.04 uses the undefined term “low-income assistance.” The term should either be defined or be replaced with a more fully descriptive phrase. Alternatively, the rule could include a description of the benefits available under the program and this term could be replaced by a reference to those benefits.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In ch. Adm 45 (title) and s. Adm 45.03 (5), “low income” should be hyphenated.

b. In s. Adm 45.04 (2) (a), “programs” should replace “program.”

c. Section Adm 45.05 states that applicants may apply to the department or to a contractor. Under what circumstances is an applicant to apply to the department and under what circumstances is an applicant to apply to a contractor, and in that case, to what contractor? Or is this choice at the discretion of the applicant? This should be clarified. If the rule gave a complete set of requirements and procedures for the program, these points would be clearer.